

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KING LINCOLN BRONZEVILLE
NEIGHBORHOOD ASSOCIATION, et al.,

Plaintiffs, Case No. C-1-06-0745
v. Judge Algenon L. Marbley
Magistrate Judge Kemp

JENNIFER BRUNNER, et al.,

Defendants.

JOINT MOTION REGARDING DISPOSITION OF ALL BALLOTS
FROM 2004 PRESIDENTIAL ELECTION

The Plaintiffs and Defendant Ohio Secretary of State Jennifer Brunner jointly move this Court for an Order that the boards of elections for the 88 counties of the State of Ohio transfer to the custody of Jennifer Brunner, Ohio Secretary of State, all ballots from the 2004 presidential election, on paper or in any other format, including electronic data, previously preserved in accordance with the Court's September 11, 2006 Opinion and Order, for the reasons set forth in the accompanying memorandum.

Clifford O. Arnebeck, Jr./DWS
Clifford O. Arnebeck, Jr. (0033391)
arnebeck@aol.com
Trial Attorney

Robert J. Fittrakis (0076796)
truth@freepress.org
1000 East Main Street, Suite 102
Columbus, Ohio 43215
(614) 224-8771

Henry W. Eckhart (0020202)
henryeckhart@aol.com
50 West Broad Street, Suite 2117

Columbus, Ohio 43215
(614) 461-0984
Counsel for Plaintiffs

Damian W. Sikora
Marc Dann
Ohio Attorney General
Richard Coglianese (0066830)
rcoglianese@ag.state.oh.us
Damian Sikora (0075224)
Assistant Attorney Generals
Constitutional Offices Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-2872
Counsel for Defendant, Secretary of
State Jennifer Brunner

MEMORANDUM IN SUPPORT

This matter is presently stayed. The parties agree that the stay in this matter shall be lifted for the sole purpose of entering the requested order, and thereafter reimposed by agreement of the parties and the order issued by this Court pursuant to this motion.

On September 11, 2006, this Court ordered the “Boards of Election for each of the 88 Counties for the State of Ohio forthwith to preserve all ballots from the 2004 Presidential election, on paper or in any other format, including electronic data, unless and until such time otherwise instructed by this Court.” It has come to the attention of the secretary of state that some boards of elections are concerned about the ongoing expense and space limitations of continuing to maintain the 2004 presidential election ballots in accordance with this Court’s order. To lessen the burden on the respective boards of elections and to provide a central repository for records, the parties are jointly requesting that an Order be entered in this matter requiring the 88 county boards of elections to transfer to the custody of the secretary of state all ballots from the 2004 presidential election, on paper or in any other format, including electronic

data, previously preserved in accordance with the Court's September 11, 2006 Opinion and Order. It is the intention of the parties that the Court's Order shall require that the records be maintained by the secretary of state in a secure location pending the final resolution of this case, and an Agreed Order has been submitted for the Court's review and approval.

Respectfully submitted,

Clifford O. Arnebeck / DWS
Clifford O. Arnebeck, Jr. (0033391)
arnebeck@aol.com
Trial Attorney

Robert J. Fitракис (0076796)
truth@freepress.org
1000 East Main Street, Suite 102
Columbus, Ohio 43215
(614) 224-8771

Henry W. Eckhart (0020202)
henryeckhart@aol.com
50 West Broad Street, Suite 2117
Columbus, Ohio 43215
(614) 461-0984
Counsel for Plaintiffs

Damian W. Sikora
Marc Dann
Ohio Attorney General
Richard Coglianese (0066830)
rcoglianese@ag.state.oh.us
Damian Sikora (0075224)
dsikora@ag.state.oh.us
Assistant Attorney Generals
Constitutional Offices Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-2872
Counsel for Defendant, Secretary of
State Jennifer Brunner

CERTIFICATE OF SERVICE

A copy of the foregoing was served upon:

Cliff O. Arnebeck, Jr. (0033391)
arnebeck@aol.com

Robert J. Fittrakis (0076796)
truth@freepress.org

Henry W. Eckhart (0020202)
henryeckhart@aol.com

by using the Court's CM/ECF system this 3rd day of April, 2007.

Damian W. Sikora
Damian W. Sikora (0075224)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

KING LINCOLN BRONZEVILLE
NEIGHBORHOOD ASSOCIATION, et al.,

Plaintiffs, Case No. C-1-06-0745
v. Judge Algenon L. Marbley
Magistrate Judge Kemp

JENNIFER BRUNNER, et al.,

Defendants.

AGREED ORDER

This matter came before the Court upon the Joint Motion Regarding Disposition of All Ballots From 2004 Presidential Election. The Court finds the Joint Motion to be well-taken and it is hereby Ordered that

The Secretary of State of Ohio, Jennifer Brunner, shall prepare a directive pursuant to R.C. 3501.05 requiring the 88 county boards of elections to transfer to the custody of the Secretary of State of Ohio all ballots from the 2004 Presidential election, on paper or in any other form, including electronic data, previously preserved in accordance with the Court's September 11, 2006 Opinion and Order. It is further ordered that

The 88 county boards of elections shall comply with the Secretary's directive requiring the transfer of all ballots from the 2004 presidential election to the custody of the Secretary of State. It is further ordered that

The stay in this matter shall be lifted for the sole purpose of entering this Order, and upon entry of this Order and by agreement of the parties, this Order shall serve to reimpose the stay previously entered in this matter. It is further ordered that

The Secretary of State shall maintain all ballots from the 2004 presidential election in a secure location pending the final resolution of this matter.

IT IS SO ORDERED.

ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

Clifford O. Arnebeck, Jr./ DWS
Clifford O. Arnebeck, Jr. (0033391)
arnebeck@aol.com
Trial Attorney

Robert J. Fitakis (0076796)
truth@freepress.org
1000 East Main Street, Suite 102
Columbus, Ohio 43215
(614) 224-8771

Henry W. Eckhart (0020202)
henryeckhart@aol.com
50 West Broad Street, Suite 2117
Columbus, Ohio 43215
(614) 461-0984
Counsel for Plaintiffs

Damian W. Sikora
Marc Dann
Ohio Attorney General
Richard Coglianese (0066830)
rcoglianese@ag.state.oh.us
Damian Sikora (0075224)
dsikora@ag.state.oh.us
Assistant Attorney Generals
Constitutional Offices Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-2872
Counsel for Defendant, Secretary of
State Jennifer Brunner